

13. The segment of claim 11, wherein the polymorphic form occupying the polymorphic site is an alternative form listed in Table 1, column 2, or 4-11.

14. An allele-specific oligonucleotide of between 10 and 100 bases that hybridizes to a segment of human mitochondrial nucleic acid or its complement including a polymorphic site shown in Table 1, column 1, excluding those polymorphic sites which are indicated in column 1 to be at position: 6427, 6463, 6497, 6542, 6544, 7207, 7705, 7711, 7848, 7858, 7866, 7929, 7974, 80822, 9511, 9512, 9513, 10016, 10017 and 10018.

In the Specification

On Page 1, line 26 please insert "See Seq ID No. 30." after "base pairs long."

Remarks

Claim 9 is rejected under 35 U.S.C. §112, first paragraph for citing a printed publication by Anderson et al. Applicants have amended claim 9 to recite "An isolated nucleic acid comprising SEQ ID NO. 30..." Moreover, applicants submit a supplemental sequence listing including SEQ ID NO. 30. Applicants assert that SEQ ID NO. 30 is the sequence which has previously been incorporated by reference to Anderson et al., Nature 290, 457-465 (1981) at, for example, page 1, lines 24-26, page 3, lines 5-7 and in claim 9 as originally submitted. As such applicants assert that the inclusion of SEQ ID NO. 30 does not constitute new matter.

Claims 1-8 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Parker et al. (P/N 5,760,205). As stated in the prior response, applicants respectfully traverse this rejection. However, in the interest of expedited prosecution and issuance of the claims, applicants have canceled claim 2 and amended claims 1 and 4 to include the limitation "wherein the polymorphic site within the segment is occupied by a base other than the base shown in Table 1, column 3 ("asn base"). Applicants, however, reserve the right to prosecute the canceled claim and claims as originally filed in a continuation or other application.

Furthermore, applicants have amended claim 10 to recite determining whether a base occupying any one of the polymorphic sites shown in Table 1 is a base other than the base shown in Table 1, column 3 ("asn base").

Claim 8 has been amended to properly claim dependency from claim 7 rather than claim 13.

Applicants have submitted new claims 11-14 which are equivalent to claims 1-4 as originally filed but exclude those polymorphic sites which are indicated in column 1 to be at position: 6427, 6463, 6497, 6542, 6544, 7207, 7705, 7711, 7848, 7858, 7866, 7929, 7974, 80822, 9511, 9512, 9513, 10016, 10017 and 10018. Applicants assert that new claims 11-13 are supported by claims 1-4 as originally filed and throughout the specification and, therefor, do not raise new matter.

Applicants respectfully submit that the current rejections are mooted and request that all claims be allowed.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 408-731-5557.

Respectfully submitted,



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